

State of Alaska

Department of Labor and Workforce Development

Division: Employment and Training Services

Policy: 07-513

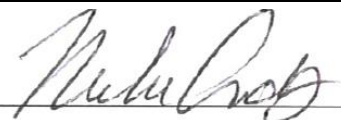
Subject: Sanctions for Non-Compliance

Pages: 4

Reference: [2 CFR 200.338](#); [Federal Regulations Vol 80, No.73](#); [State Training and Employment Program, Alaska Administrative Code \(AAC\) 8 AAC 87.160-220](#); [Displaced Homemakers' Program 8 AAC 88](#); [Alaska Technical and Vocational Education Program 8 AAC 86](#)

Effective: 2/3/2016

Approved:



Mike Andrews, Director



Date

1. Parties Affected

This policy applies to grant recipients receiving public funds through the Division of Employment and Training Services (DETS) and to DETS staff.

2. Background

Technical assistance, oversight, and monitoring are tools used to ensure compliance with federal and state laws and regulations, program and funding requirements. At times, sanctions and corrective action plans are necessary when recipients of public funds are found to be out of compliance. This policy provides DETS staff and grant recipients guidance for resolution of questioned costs or findings of non-compliance sanctions that may be imposed by for non-compliance of program requirements.

3. Policy

Grant recipients of public funds from DETS will comply with the requirements set forth in this policy regarding the resolution of findings of non-compliance and questioned costs, and any sanctions that may be imposed by DETS.

4. Requirements

DETS may become aware of activities and associated costs that may be violations of program, grant, state or federal policy, regulations, requirements or laws as a result of annual monitoring, audits by independent auditors, monitoring by the federal grantor

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Auxiliary aids and services are available upon request to individuals with disabilities Page | 1

agency, complaints, investigations or other similar activities. These concerns, which may include questioned costs, disallowed costs, or findings of non-compliance, will be brought to the grant recipient's attention in writing in the form of an initial determination. The procedure for responding to the concerns will be provided to the grant recipient. Based on the grant recipient's response to the initial determination, DETS will make a final determination regarding the concerns. As allowed for in this policy, the grant recipient may appeal the determination.

Sanctions Resulting from Non-compliance

DETS may impose one or more of the following sanctions as a result of issuing a final determination:

a) Withholding of Payments

Payments may be withheld pending correction of the deficiency by the grant recipient.

b) Repayment of Disallowed Costs

All or part of the costs of the activity or action may be not in compliance and disallowed. Repayment of disallowed costs is as follows:

1. Repayment must be made within 30 days of the receipt of the final determination;
2. Repayment must be in cash and must be paid from sources other than state or federal grants;
3. Alternative repayment plans or debt collection methods may be negotiated if requested by the recipient within 30 days of receipt of the final determination.

c) Suspension of Grant Activities in Whole or in Part

Suspension of grant activities may be imposed if the terms of the grant agreement are not met.

d) Reduction in the Grant Amount

The grant amount may be reduced if the non-compliance pertains to one specific activity or phase of a project and performance on the remainder of the grant is determined acceptable.

e) Termination of the Grant

The grant may be terminated if the findings of non-compliance are not resolved or if there has been blatant disregard for grant requirements, or the recipient fails to repay disallowed costs within the required time.

f) Withhold further awards from DETS

The grant recipient may be debarred from doing business with the State of Alaska in the most serious of situations, such as when there is fraud or abuse. Debarment prohibits the recipient from receiving any grants from the DETS while debarred.

Legal Action

Issues that cannot be resolved through the above sanctions, or where illegal activities are suspected, will be referred to the state attorney general for resolution.

Appeal of Final Determinations

The grant recipient may appeal a final determination and must:

- a) Provide a request to appeal in writing;
- b) be received within 15 calendar days of the grant recipient's receipt of the final determination;
- c) specify the factual basis by which the appeal is being made;
- d) include appropriate documentation to support the facts; and
- e) specify the form of relief requested.

Complaints may be filed at either the Division level or Department level. Division level complaints are reviewed and determinations made by the Director of DETS, or designee. Department level complaints are reviewed and determination made by the Commissioner, or designee. It is recommended that all complaints be initiated at the Division level, which will preserve the right for further appeal to the Department level, if warranted. Complaints initially filed at the Department level may not later be filed at the Division level. This does not preclude informal resolution at the Division's program staff level at the same time.

Division Level complaints may be sent to:

Division of Employment and Training Services
Director
PO Box 115509
Juneau, AK 99811-5509

Department Level Complaints may be submitted to:

Department of Labor and Workforce Development
Commissioner
PO Box 111149
Juneau, Alaska 99811-1149

Or Emailed to Commissioner.Labor@alaska.gov.

Complainants may appeal Division level decisions within five (5) working days of a written denial. All appeals and responses must be in writing and submitted to the Commissioner at the Department level.

Commissioner's staff has ten (10) working days to make a decision regarding an appeal. Additional information from the complainant may be requested, bearing in mind that a decision must be made in a timely manner. Commissioner's staff will negotiate with the complainant to determine a reasonable time for additional information to be submitted. Once additional information is received, staff has three (3) working days to make a decision.

The decision of the Commissioner is final and no further appeal will be granted by the department.

5. Definitions

- a) **Disallowed costs** are questioned costs that have been formally determined by DETS to be in violation of the statutes, regulations, policies or other requirements governing the use of public funds.
- b) **Final determination** is the formal decision from DETS concerning the resolution of a finding of non-compliance or the allowableness of questioned costs.
- c) **Finding of non-compliance** is a matter identified by or brought to the attention of DETS concerning an activity of a recipient of public funds from DETS that may be in violation of the statutes, regulations, policies or other requirements governing the use of public funds.
- d) **Grant** is all of the documents included in the contractual agreement between DETS and a financial assistance recipient under one of the DETSs' job training programs and includes Reimbursable Services Agreements (RSA) with other state agencies where funds are provided for services to the public.
- e) **Grant recipient** is any individual or organization that directly receives public funds from DETS.
- f) **Initial determination** is a preliminary decision by DETS concerning the resolution of a finding of non-compliance or the allowableness of questioned costs.
- g) **Questioned costs** have been identified as possibly being in violation of one or more federal or state laws, regulations, policies or other requirements.